IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re U.S. Utility Patent Application of

Butz, Stephen — Art Unit: 2161

Appln. No. 09/976,481 — Examiner: Charles Edward Lu

Filed: 12 October 2001

For: SOFTWARE SYSTEM FOR QUANTITATIVE MEASUREMENT AND ACCOUNTABILITY FOR SOCIAL SERVICES

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July 26, 2007

SUPPLEMENTAL APPEAL BRIEF

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

In response to the Advisory Action dated 26 June 2007, and further to Appellant's Notice of Appeal filed 14 March 2007, his Supplemental Appeal Brief is submitted herewith in triplicate. This is an Appeal from the final rejection of claims 1 and 4-9 of the subject application. No claims stand allowed. The fee for filing a brief under 41.20(b)(2) ($250.00) was previously submitted, and please charge any missing or insufficient fee to our Deposit Account No. 50-3391.

REAL PARTIES IN INTEREST

The real parties in interest are the inventor Stephen Butz, Social Solutions Corporation, 3500 Boston Street, Ste 70, Baltimore, Maryland 21224, and Living Classrooms Foundation, 802 South Caroline Street, Baltimore, Maryland 21231.

RELATED APPEALS AND INTERFERENCES

Appellant avers that there are no other prior or pending appeals, interferences or judicial proceedings known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this pending appeal.

STATUS OF CLAIMS

Claims 1 and 4-9 are pending in the application. The rejection of all remaining claims 1 and 4-9 is appealed. Please see Appendix A for a copy of the claims under Appeal.

STATUS OF AMENDMENTS

The Examiner issued a first Official Action dated 30 November 2005. Appellants visited the Examiner 18 January 2006, and followed with an Amendment on 10 May 2006. This faxed Amendment was not viewed as timely and the Application was deemed to have lapsed. On 14 August 2006 Appellant submitted a Petition for Revival and resubmitted the Amendment. While the Petition for Revival was granted, the Amendment failed to secure an allowance. A final Official Action was issued 14 December 2006. Appellants filed a Rule 1.116 Amendment on 14 March 2007, along with a Request for Reconsideration of the finality of the Official action, and timely noted this Appeal. The Examiner issued an Advisory Action on 29 March 2007 declining to enter Appellant's Rule 1.116 Amendment, but failing to consider or address or consider

Appellant's Request for Reconsideration of the finality of the Official action. The status of the claims are as amended per Appellant's 14 August 2006 Amendment.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is a software method for case management of social workers. The system is designed to provide quantitative accountability for the social services provided in an environment that lacks traditional objective performance benchmarks. To do this the system erects a structured relational database and provides users with a graphical user interface that compiles pre-determined SQL queries to generate reports from the database data.

The present method requires five specific categories of information regarding: 1) the social service provider, 2) the client, 3) client barriers to success inclusive of severity, 4) client outcome, and 4) general demographic data. [Published Application page 2, column 2, paragraph 0026]. FIG. 1 is flow chart illustrating the general method steps according to the present invention. The 3rd category, client barriers to success and severity, is what patentably distinguished the method and indeed makes it possible to assess quality of social services without any baseline data for comparison. To do this the method interactively *guides* social workers into defining client barriers to productivity (via the user interface), and then objectively tracks progress of the social worker based on the reduction and/or elimination of those barriers. [Published Application page 2, column 1, paragraph 0011]. Thus, for example, if a client has literacy problems that effect job performance, the program interactively *guides* the social worker

into defining a literacy barrier to productivity (via the user interface) inclusive of the severity of that barrier, and then objectively tracks progress of the social worker based on the reduction and/or elimination of the literacy barrier (among other traditional goal-oriented progress elements). [Published Application page 5, column 1, paragraph 0035]. Previously, social worker performance was only measured by the time actually spent with clients. This objective assessment is far more useful.

More specifically, in accordance with the present method, the social worker will first progress goals for a client from a predefined categorical list of Progress Elements. [Published Application page 4, column 2, paragraph 0033]. These Progress Elements may, for example, include Retention; New Employment; Wage Increase; Promotion; and Educational Advancement.

The social worker will then select barriers to productivity for those progress goals. This can be done from a predefined categorical list of Barriers corresponding to each defined goal [Published Application page 5, column 1, paragraph 0035]. Alternately, the social worker may define and enter new (custom) barriers. For example, in the context of employment placement, an exemplary set of predefined Barriers will include Day Care (whether the client requires day care for dependants); Transportation (whether the client requires transportation to/from work); Health Issues; Family Issues (e.g., divorce situation); Behavior (behavioral issues); Attitude; Weight; Personal Hygiene, Disability, Laziness; Money Management; Lack of Skills; and Literacy [Published Application page 5, column 2, paragraph 0036]. These Barriers to Success represent

articulated problems or obstacles that stand in the way of the client attaining a given progress goal.

Next, the method also requires the subjective (but quantitative) identification of the severity of the barriers on a scale of from 1 (lowest severity) to 10 (most severe). [Published Application page 5, column 2, paragraph 0036]. The three foregoing data components (progress goals, corresponding barriers to success, and severity of success) combine to allow the social worker to track the reduction in severity of the barriers to success, eventually overcome them, and eventually close them. [Published Application page 5, column 2, paragraph 0036]

This is an entirely new model geared specifically toward monitoring social services, where it is otherwise impossible to monitor incremental effectiveness of the services. If a goal is to find employment, it is easy to measure the starting point (no employment) and the end point (full employment), but near impossible in between. *The present method accomplishes it by defining the goals, the barriers to success, severity of the barriers, and then by tracking incremental reduction in the severity of the barriers over time (rather than progress toward the end goal).* It is distinctly different from most medical "quality of care" systems that merely track physical improvement toward a health goal.

Claim 1 is the only independent claim. The preamble of claim 1 is directed to providing quantitative accountability for social services provided by a case worker to a client via a navigable user interface. This distinguishes physicians that provide medical treatment to patients.

The present method is not intended to assess physician quality of patient care, but only effectiveness of social workers in their counseling outcomes.

Claim 1 additionally requires the steps of:

collecting information relating to defined social services and providers [Published Application page 2, column 2, paragraph 0027 and FIG. 1 step 100];

collecting information relating to defined clients; [Published Application page 2, column 2, paragraph 0028 and FIG. 1 step 200];

collecting information relating to defined client barriers to productivity;

collecting information relating to defined goal-oriented client outcomes; [Published Application page 4, column 2, paragraphs 0032-33 and FIG. 1 step 300].

The foregoing collected information is collected in a guided manner by the user-interface and is incorporated in the structured relational database. Client appointments continue as necessary. When an assessment is desired, claim 1 specifically requires a pre-determined query for allowing a user to generate a report indicating **reduction of said client barriers over time, thereby maintaining quantitative accountability for social services.**

[Published Application page 6, column 2, paragraphs 0042-44 and FIG. 1 step 700].

The above constitutes a concise explanation of the invention defined in the sole independent claim 1. Claims 2 and 8 are argued separately on Appeal, and both require "pre-defined itemized barriers to client productivity and for each itemized barrier a severity of said barrier." [Published Application page 5, column 2, paragraph 0036 and FIG. 1 step 700].

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

There are two categorical issues set forth as follows:

1st: Whether claims 1 and 4-8 are anticipated under 35 U.S.C. 102(e) and (a) by Douglas et al (U.S. Patent 6,039,688)?

2d: Whether claim 9 is obvious under 35 U.S.C. 103(a) over Douglas et al (U.S. Patent 6,039,688)?

APPELLANTS' ARGUMENT

1st: The Examiner clearly erred in rejecting claims 1 and 4-8 as anticipated under 35 U.S.C. 102(e) and (a) by Douglas et al (U.S. Patent 6,039,688).

Douglass '688 is a therapeutic behavior modification program, compliance monitoring and feedback system that sets a series of milestones for an individual to achieve lifestyle changes. The system monitors the individual's compliance with the program by prompting the individual to enter health-related data, correlating the individual's entered data with the milestones and generating compliance data indicative of the individual's progress toward achievement of the milestones. The milestones are automatically set by correlating patient information such as age, sex, weight and information relating to the health, life situation and diagnostic category of the patient to established medical protocols for that type of patient. Based on the correlation, the system suggests a therapeutic program including goals relating to intake of calories from fat,

exercise level, stress management counseling, and group support and compliance management frequency. The patient record and milestones are presented to the physician or case advisor who may confirm or edit the suggested program to modify the goals (block 1012, FIG. 60). To use the program, the patient logs into the system network server and tracks their own progress. Reports are generated to the physician to allow them to modify the milestones. If, for example, a patient initially placed on a program of walking 15 minutes three times a week loses 5 pounds and lowers his or her blood pressure, the system might generate a report to the physician recommending an increase in the patient's walking time to 45 minutes per session. *Clearly*, the system is singularly devoted to automatically generating a program of patient health and wellness milestones and to provide feedback to the patient and his/her doctor (or case worker).

In contrast, *the present system is devoted to tracking the effectiveness of the case worker, not the patient.* Claim 1 is specifically limited to a method for the storage and querying of social services data in a knowledge base that provides *quantitative accountability for social services provided by a case worker to a client*". Douglas '688 does not teach or suggest any manner or means of tracking the physician's effectiveness, only the patient's progress. Moreover, Merriam Webster defines "social service" as an activity designed to promote social well-being; specifically: organized philanthropic assistance (as of the disabled or disadvantaged). Claim 1 is specifically limited to providing *quantitative accountability for social services provided by a case worker to a client.* Douglas '688 only tracks patient health milestones and not social services.

Note that the Examiner equates "collecting information relating to defined social services

and providers with col. 19, ll. 26-48, fig. 49-58, col. 19, l. 49 - col. 21, l. 5). Since this system is not concerned with provider accountability, the only information collected in regard to the case worker or physician is a password and username, as made clear by the Examiner's cited sections. Therefore, Douglas et al '688 fails to anticipate claim 1.

More importantly, Douglas et al '688 is a traditional performance monitoring model: erect health milestones and incrementally track positive performance towards them. The model simply does not work in the social services setting because such goals as finding a job cannot be measured incrementally over time. The quality or effectiveness of social services has no baseline data for comparison. Nevertheless, the present method succeeds by guiding social workers into defining *client barriers* to success, and then objectively tracking progress of the social worker based on the reduction and/or elimination of those barriers. This is an entirely different model geared specifically toward social services, not physician quality of care. Applicant's approach does not evaluate whether a penultimate goal is reached as in Douglas, but rather breaks the approach down into client barriers to success, and the case worker's efforts toward reducing those barriers. This entails five specific categories of information relating to: 1) the social service case manager, 2) the client, 3) client barriers to success inclusive of severity, 4) client outcome, and 4) general demographic data. The guidance provided to the case manager, and the resulting quantification of the barriers faced by the client are essential features of the present invention, unique to the social services context, and unique in comparison to Douglas '688. More specifically, the data entry screen shown in the present application (FIG. 5) guides the case

manager to articulate discrete barriers to success. The barriers are discrete obstacles personal to each client which stand in the way of the case worker attaining a goal. For example, transportation may be a barrier to job placement if the client requires transportation to/from work. Other barriers may include Health Issues; Family Issues (e.g., divorce situation); Behavior (behavioral issues); Attitude; Weight; Personal Hygiene, Disability, Laziness; Money Management; Lack of Skills; and Literacy). This barriers data is used to populate a separate database table, which essentially becomes the baseline data by which progress can be analyzed. Again, in the present method case worker progress is analyzed not in terms of reaching an overall goal (such as job placement), but instead by reduction over time of the defined barriers to success. This guided entry of discrete client barriers to success and progress toward reduction of the defined barriers is an entirely novel concept in the social services arena. The barrier data is used to populate a separate database table, which essentially becomes the baseline data by which case worker progress can be analyzed over time.

The foregoing is clearly reflected in claim 1, which recites, inter alia, *collecting information relating to defined client barriers to productivity; collecting information relating to defined goal-oriented client outcomes; incorporating said collected information into a structured relational database; and generat[ing] a report indicating reduction of said client barriers over time.* Douglas et al '688 fails to anticipate these elements of claim 1, and the Examiner's interpretation of Douglas et al '688 is overstretched. The Examiner equates "collecting information relating to defined client barriers to productivity" with certain factors of health and

behavior (fig. 5, and fig. 45, #306, #308). One skilled in the art would not equate these positive concrete goals with "defined client barriers to productivity." Note that claim 1 does also require "collecting information relating to defined goal-oriented client outcomes," which is much more similar to Douglass' goals. Thus, the doctrine of claim differentiation compels that a different meaning be attached to "barriers to productivity". "Barriers to productivity" is carefully defined in the present specification to be barriers to occupational progress (such as literacy), and includes barrier severity.[1] A "barrier" is something immaterial that impedes or separates, e.g., an obstacle [Merriam Webster]. These are not goals, these are barriers toward achieving a goal and Douglass '688 does not teach or suggest this. Note that as the social services are provided the case worker must track each of his subsequent client contacts devoted "toward reducing the specified barrier severity or eliminating the barrier completely." Whether the case worker fails to attend to the client or fails to track these contacts, it is the social worker that becomes accountable, and Douglass '688 simply has no corollary ability to track his physicians or case workers.

The Examiner equates "generat[ing] a report indicating reduction of said client barriers over time, thereby maintaining quantitative accountability for social services" (also required by claim 1) in great generality to all of FIGs. 39-45 of Douglas '688, but none of these FIGs. have anything to do with provider accountability and so the examiner's prima facie anticipation

[1] The barriers are discrete obstacles personal to each client which stand in the way of the case worker attaining a goal. For example, transportation may be a barrier to job placement if the client requires transportation to/from work. Other barriers may include Health Issues; Family Issues (e.g., divorce situation); Behavior (behavioral issues); Attitude; Weight; Personal Hygiene, Disability, Laziness; Money Management; Lack of Skills; and Literacy).

rejection of claim 1 is overcome and claim 1 is patentably distinguished over Douglass '688.

With regard to claims 4-8, these claims incorporate the limitations of claim 1 above and are likewise patentably distinguished. Claims 4-8 are additionally limited to tracking the severity of pre-defined itemized barriers to client productivity over time to measure reduction. In this regard claims 4-8 are distinguished on their own merits.

Claims 4 and 5 specifically reflect collecting information relating to pre-defined itemized barriers to client productivity and for each itemized barrier a severity of said barrier. Given the plain meaning and the present specification support and definition for this language, there simply is no counterpart in Douglass '688. Indeed, Douglass '688 fails to define any productively barriers at all, and so certainly does not disclose entering a severity of any barriers. Claims 6 and 7 further define what is done with the collected client barrier and severity information. These claims require periodic *monitoring to measure reduction of said defined client barriers over time.* The Examiner contends that measuring reduction of defined client barriers to success is the same as measuring success, and the latter is taught by Douglas (fig. 45, col. 18, II. 5-35). This perspective entirely overlooks the core concept of Appellant's system and is plain error in light of the foregoing rationale. Douglass '688 fails to define any barriers at all, and so certainly does not disclose periodically tracking any reduction in the severity of any barriers. The present method as recited in depending claims 4-8 specifically tracks severity of pre-defined itemized barriers to client productivity over time to measure reduction in the severity. Douglass '688 fails to do this

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This barriers data is used to populate a separate database table, which essentially becomes the baseline data by which

and one skilled in the art could not reasonably impute this to Douglass '688, and so claims and 4-8 as anticipated under 35 U.S.C. 102(e) and (a) by Douglas et al (U.S. Patent 6,039,688).

2nd: The Examiner clearly erred in rejecting claim 9 as obvious under 35 U.S.C. 103(a) over Douglas et al (U.S. Patent 6,039,688).

The Examiner contends that "Douglas teaches selecting from a predefined categorical list of progress elements (e.g., see fig. 45,." Behavioral Intention, Self-Efficacy, etc"). The Examiner acknowledges that Douglas does not teach educational advancement, but states that "education and motivation is a two-pronged approach to behavior modification (col. 14, II. 10-24). Claim 9 requires collecting information relating to defined goal-oriented client outcomes from *a predefined categorical list of progress elements* including job retention, finding a new job, wage increase, promotion, and educational advancement. The passing statement in Douglass that education and motivation is a two-pronged approach falls short of collecting information relating to the defined class of goal-oriented client outcomes from *a predefined categorical list of progress elements* including job retention, finding a new job, wage increase, promotion, and educational advancement. Douglass is not adapted for social services (but only health info), and is not adapted to assess the provider (only the patient). Douglas does not employ any element from the predefined categorical list of progress elements of Claim 9 (job retention, finding a new job, wage increase, promotion, and educational advancement), and it is improper for the Examiner

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progress can be analyzed.

to loosely analogize elements to make an obviousness rejection. The Examiner's statement that "education and motivation is a two-pronged approach to behavior modification (col. 14, II. 10-24) makes little sense at all, and in no way justifies the combination. Therefore, his prima facie obviousness rejection is traversed.

* * * * *

For the reasons set forth herein, it is believed that the Examiner erred and that this application clearly and patentably distinguishes over the prior art and the Examiner's primae facie rejections are traversed. Reversal is respectfully requested.

Respectfully submitted,

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APPENDIX A: Claims Under Appeal

1. A method for the storage and querying of social services data in a knowledge base that provides quantitative accountability for social services provided by a case worker to a client via a navigable user interface, comprising the steps of:

collecting information relating to defined social services and providers;

collecting information relating to defined clients;

collecting information relating to defined client barriers to productivity;

collecting information relating to defined goal-oriented client outcomes;

incorporating said collected information into a structured relational database;

providing a graphical user interface with a plurality of controls each for initiating a pre-determined query for allowing a user to generate a report indicating reduction of said client barriers over time, thereby maintaining quantitative accountability for social services.

4. The method for the storage and querying of social services data in a knowledge base to provide quantitative accountability for social services according to claim 1, wherein said step of collecting information relating to defined client barriers to productivity further comprises selection of pre-defined itemized barriers to client productivity and for each itemized barrier a severity of said barrier.

5. The method for the storage and querying of social services data in a knowledge base to provide quantitative accountability for social services according to claim 4, wherein said step of providing a graphical user interface with a plurality of controls each for initiating a pre-determined query further comprises a control for initiating a pre-determined query for allowing a user to generate a report assessing progress in reducing severity or eliminating said client barriers over time.

6. The method for the storage and querying of social services data in a knowledge base to provide quantitative accountability for social services according to claim 1, further comprising a step of periodically collecting information measuring reduction of said defined client barriers.

7. The method for the storage and querying of social services data in a knowledge base to provide quantitative accountability for social services according to claim 6, further comprising a step of periodically collecting information specifying said case workers efforts toward reducing said defined client barriers to productivity over time.

8. The method for the storage and querying of social services data in a knowledge base to provide quantitative accountability for social services according to claim 7, wherein said step of providing a graphical user interface with a plurality of controls each for initiating a pre-determined query further comprises at least one control for initiating a pre-determined query for allowing a user to generate a report assessing reduction of said client barriers over time, and at least one control for initiating a pre-determined query for allowing a user to generate a report assessing effectiveness of said case workers efforts toward reducing said defined client barriers

over time.

9. The method for the storage and querying of social services data in a knowledge base to provide quantitative accountability for social services according to claim 1, wherein said step of collecting information relating to defined goal-oriented client outcomes further comprises selecting from a predefined categorical list of progress elements including any one from among the group consisting of job retention, finding a new job, wage increase, promotion, and educational advancement.

APPENDIX B: Evidence Appendix

There has been no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 nor any other evidence entered by the Examiner and relied upon by appellant in the appeal.

APPENDIX C: Related proceedings appendix

There are no related appeal proceedings, nor any decisions rendered by a court or the Board in any related appeal proceeding.